

LSOHC Partner Easement Programs Description

Presented at the Oct. 4, 2016 LSOHC Easement Working Group Meeting

<u>Question</u>	<u>Entity</u>	<u>Description of Accomodation</u>
Overview of Easement Valuation	BWSR	Approx 90% (crop rate) and 60% (non-crop rate) of land value for perm. easements. Use Twsp Avg Tillable Land Value as reported by County Assessors via UofM Land Econ. website. Based upon local assessor's reporting of prior year land sales. Wild Rice & ACUB - Uses 60% of most recent assessed land value (excluding bldgs) for acres enrolled at time of application.
	MLT	Historically, most MLT conservation easements have been donated. Today, most are either donated or have partial donation. For purchases or partially purchased easements, MLT secures qualified appraisal through RFP process. Appraisals follow state funding guidelines.
	TNC/USFWS	Adjusted Assessed Land Value (AALV): Estimate used to establish market value of land. Based on county's tax assessed value of the property. Form 1: Allows grazing and haying (60% of AALV). Form 2: Allows haying only (75% of AALV). Form 4: Allows grazing only (65% of AALV).
	Dakota	Certified appraisals according to "Attachement E."
	DNR - NPB	Formula as per statute: 65% of the Non-crop Reinvest in Minnesota (RIM) rate as determined by the Board of Water and Soil Resources (BWSR) for the township where the prairie is located.
	DNR - Trout Streams	Trout stream easements are valued by formula set forth in Minnesota Statutes, section 84.0272. The payment under the formula equals the linear feet of the stream within the easement corridor times \$5; plus the easement corridor acres times estimated market value.
	DNR - Forest	Certified appraisals
Development Prevention	BWSR	RIM Easements don't allow development on easement. "Shall not...erect or construct any type of structure, temporary or permanent, on the easement area..."
	MLT	Typically, MLT easements will prohibit further division of the property except in unique circumstances.
	TNC/USFWS	Buildings may not be constructed on an portion of tract covered by the easement.
	Dakota	No new industrial, commercial, or residential development allowed.
	DNR - NPB	Standard terms: "No residential, commercial or industrial use of the Protected Property, and no agricultural use of the Protected Property except for those uses expressly permitted by Section 5.1 of this Easement."
	DNR - Trout Streams	Standard terms in DNR's trout stream easements prevent development. They prohibit structures, buildings, excavating, filling, dumping, tree cutting, vegetation damage or removal, mowing, burning or changing the stream course without prior written approval of the grantee.
	DNR - Forest	Typically no further development or division including industrial, commercial or residential use
Building Envelopes	BWSR	No new industrial, commercial, or residential development allowed. Prior to funding, ensure full protection of the targeted area. Areas of lesser importance are allowed to be excluded from easement area through negotiation.
	MLT	MLT prefers to exclude existing residential use. Occasionally, when exclusion is not possible, building envelopes are used to confine placement of structures and improvements.
	TNC/USFWS	Can be allowed through negotiation. Prefer they are located at edge or corner of easement area if allowed at all.
	Dakota	Existing residential structures or a future lot may be included with restrictions. All future residential constructed improvements are restricted.
	DNR - NPB	It is very uncommon for our easements to include building envelopes, we have perhaps 5 easements that include them. One easement has the ability to have an envelope in 1 of 3 possible "edge of the prairie" locations (but no building has ever been built), another includes a shed, another is for a small pump-house, etc.
	DNR - Trout Streams	Most local ordinances require buildings to be set back far enough from the stream so they are not within the easement corridor. Any existing buildings within the usual corridor width are typically excluded from the easement.
	DNR - Forest	Typically building envelopes are excluded. However, in some cases these incompatible uses may be inseparable from the land holding or the long-term values of the project could be better protected by establishing designated improvement areas within the easement, instead of allowing for unrestricted use within or adjacent to the FLP project area.
Existing and Future Structures (houses, barns, etc)	BWSR	Future structures are barred from easement area. Existing structures are removed at landowner expense. Typically, structures and associated building envelopes are excluded from easement area.
	MLT	(See building envelopes)
	TNC/USFWS	Existing buildings/inappropriate sites are excluded from easement area.

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	Dakota	Existing small structures (e.g.. Deer stands, docks, etc.) allowed and new small structures are discretionary. Fences allowed. Existing utilities, roads, trails, and paths may be maintained or improved. New facilities of this type are restricted.
	DNR - NPB	No permanent structures or improvements generally allowed, uncommon exceptions include pump-houses and sheds. Fences, temporary duck blind and temporary deer stands are allowed structures.
	DNR - Trout Streams	Although existing buildings within the usual corridor with are typically excluded from the easement, existing structures can be grandfathered into the easement. If so, they are described in the baseline property report. New structures or expansion of existing structures is prohibited.
	DNR - Forest	Existing structures may be allowed within the easement, depending on the nature, size, etc. of the structure; in other cases the structure may be excluded from the easement area. Similarly for future structures, it depends upon the type of structure. Structures are variable and certain types of structures (storage sheds for example) might be allowed.
Ag Land & Active Ag (farming allowed, land required to be restored)	BWSR	Cropping can continue through the growing season in the year easement is recorded. Native species restoration would then occur. Once vegetative restoration occurs, ag-related activities allowed include: Pollinator plantings (eg early-spring blooming annuals that meet 10% NTE 5 acre policy) or food plots (that meet our policy of 10% of easement area NTE 5 acres). Conservation haying or grazing, when used as vegetation management, must have an approved mgt plan.
	MLT	Ag use (cultivation) is typically prohibited unless: 1) such a small area to be incidental to the overall habitat goals, 2) includes conservation grazing as a habitat management goal, 3) Is in a temporary status awaiting restoration.
	TNC/USFWS	No cultivation allowed
	Dakota	Cultivation of crops and pasture are restricted unless included in the natural resource management plan. Fences allowed.
	DNR - NPB	Section 5.1 of terms includes allowance for grazing, haying, or seed collection if the landowner a) retains those rights, b) accepts a reduced payment and c) is under the guidance of a Prairie Stewardship Plan, which may include a grazing plan, a haying plan, or a seed collection plan. Grazing plans use the DNR Prairie Condition Ranking Guidelines for ascertaining if a prairie is losing diversity because of mismanagement and DNR staff can then require the landowner to reduce the stocking rate to help restore the vegetation to acceptable levels. Haying can only occur after July 15 th , and bales or stacks must be removed within 2 weeks of when the hay was harvested. Only part of the prairie can be hayed in any year – whether that is 1/3, ½, or ¾, depends on how the terms were negotiated with the landowner. Landowners who retain seed harvest rights can harvest seed on 1/3, ½, or ¾ of the prairie, and must rest a different area each year. After seed harvest the landowner must wait at least 1.5 years before harvesting seed on that field again. For OHF acquired parcels, cropping is allowed to continue until restoration takes place. Restoration of these parcels takes place within 5 years of acquisition as allowed in the appropriation.
	DNR - Trout Streams	Easements require existing tillage to comply with county shoreland setback standards and no new tillage within the easement corridor is allowed. Conservation grazing is allowed.
	DNR - Forest	Most easements do not contain ag land and farming/grazing is typically not allowed. Rarely parcels may include small plots with legumes, grasses, pollinator plants.
Wildlife Habitat Prioritization	BWSR	Generally done as part of site selection process using scoring systems weighted towards wildlife habitat and connectivity. Most of our programs favor wetland and grassland species. BWSR maintains Native Veg. Establishment & Enhancement Guidelines - detail species diversity based on current site conditions and future project goals. Seed source sequence used for obtaining species from as close to site's ecological section as possible. Local staff are familiar with site specifics, project goals, landowner goals, and work with landowners to implement.
	MLT	
	TNC/USFWS	#1 Native prairie. #2 Core and corridor areas. #3 Near existing protected lands. #4 Biodiversity.
	Dakota	
	DNR - NPB	The term that addresses this is the Definition of Conservation Values states: <i>“For the purpose of this Easement, the term “Conservation Values” means the scientific and educational opportunities, native prairie lands, native plants and animals (including without limitation rare species and communities), the ecological processes that support them, the water and soil quality, wetlands, riparian and aquatic habitats and the geologic features specifically identified in the Baseline Property Report.”</i>

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	DNR - Trout Streams	The decision to acquire a trout stream easement is based on numerous parameters, most of which are relative to instream and stream bank conditions. But connectivity to larger blocks of terrestrial habitat is factored in, as well as records of any rare plants or animals.
	DNR - Forest	Typically done as part of parcel prioritization using scoring system that looks at parcel connectivity, adjacency to other protected parcels, water and wetland features, biodiversity and rare species habitat.
Allowed vs prohibited uses	BWSR	Landowners retain ownership and control of property they enroll into easement but easement prohibits: 1) Cropping and grazing unless specifically approved by BWSR for habitat mgt purposes, 2) Timber harvest, unless approved by BWSR for forest mgt purposes, 3) Building or placing structures on the easement, 4) Mining activities, 5) Placement of wells and sewage disposal systems, 6) Grading and excavating or any activity that would alter cover that has been established on easement. Generally, activities that do not affect or destroy the cover are allowed.
	MLT	Typically prohibit industrial or commercial use of property.
	TNC/USFWS	Of the 27 NTP NWR easements acquired to date: 15% are Form 1 - Haying and grazing allowed; 22% are Form 2 - Haying only; 63% are Form 3 - Grazing only.
	Dakota	Horses & pets allowed for family or guest use. Low impact recreation, including nondegredating motorized vehicle use, by family & guests allowed.
	DNR - NPB	ALLOWED: 1.) Preserve and protect the Conservation Values of the Protected Property, 2.) Research and education, 3.) Long term sustainable management of the prairie, 4.) Landowner retains all hunting, fishing, trapping rights, 5.) Landowner can manage prairie if a prairie stewardship plan has been written, 6.) Temporary deer stands, 7.) Motorized vehicle ONLY to retrieve a downed game animal, or to manage the property (mend fence, treat for invasive species) and only if that activity will not cause rutting, 8.) SOME easements allow grazing, 9.) Prescribed burning, 10.) SOME easements allow haying, 11.) SOME easements allow prairie seed collection. PROHIBITED: 1.) Activities that impair or interfere with the conservation values, 2.) Cutting, trimming, mowing, planting, removing vegetation unless a stewardship plan has been written and agreed to in writing, 3.) Bringing invasive species onto the Protected Property, 4.) Expressed or implied uses that do not support or enhance native prairie, 5.) Topographic changes, 6.) Dumping of ashes, junk, rubbish, sawdust, garbage, offal, 7.) Motorized vehicle use, 8.) Drawing of water for irrigation, 9.) Camping or fires, 10.) Residential, commercial or industrial use, 11.) Agricultural use (except when grazing haying or seed collection is allowed), 12.) Subdivision of the Protected Property.
	DNR - Trout Streams	In addition to the easement terms described above, trout stream easements allow only for public angling access and do not permit other recreational uses. The easements also provide MNDNR staff, successors and assigns access for fish management purposes.
	DNR - Forest	Industrial, residential, commercial, agricultural activities generally prohibited. Forest and wildlife management allowed under guidance from a DNR approved forest management plan and application of site level guidelines which promote or enhance functions and values of water and soil resources, wildlife habitat, riparian areas.
Natural Resource Management Requirements	BWSR	Landowners receive financial assistance for costs of establishing conservation practices as outlined in conservation plan developed by SWCD in cooperation with landowner. The landowner is responsible for maintaining the practices as well as controlling noxious weeds.
	MLT	Management of natural vegetation to improve its habitat values is always allowed, though subject to an approved management plan. These mgt plans are often developed and reviewed prior to closing the conservation easement.
	TNC/USFWS	No haying before July 15th. Tree plantings are not allowed. Weed control is responsibility of the landowner. Broadcase spraying not allowed. Approved chemicals only. FWS encourages and provides suport to manage lands as healthy grasslands.
	Dakota	Vegetation management allowed when in accordance with NRMP including selective or fuelwood timber harvest, plant product (berries, nuts, etc) harvest, and invasive plant prevention & management. Use of pesticides/herbicides restricted unless included in NRMP.
	DNR - NPB	Term 5.1.1 reads <i>"Prior to conducting any management, the Landowner must submit a written Prairie Stewardship Plan for the Protected Property to the Commissioner, and the Commissioner must review and approve such a Plan in writing. The Landowner will not destroy, cut, trim, mow, plant, or remove trees, shrubs, bushes or plants, allow livestock to graze the prairie, or apply pesticides unless a Prairie Stewardship Plan has been approved by the Commissioner. The Commissioner may also approve a single management activity in writing without a Prairie Stewardship Plan existing for the protected property."</i> Term 6.2 gives the DNR the right to enter the Protected Property to undertake prairie management activities, to harvest seed (if the landowner has not retained that right or if they chose not to collect seed that year) and the right to monitor and inspect the Protected Property. Term 6.3 gives the DNR the right to enforce the terms of the easement.

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	DNR - Trout Streams	Natural resource management within trout stream easements typically involves both instream and riparian management. Instream management can include projects that reduce erosion and sedimentation, provide additional habitat via natural materials and in cases of extreme flooding, reduce incising of the stream and reconnect the channel to the flood plain to restore natural flow. Riparian management can included control of invasive species and enhance overhead cover. Eroding stream banks are often restored to a stable condition and stream morphology restored to a more healthy condition though standard trout habitat improvement techniques.
	DNR - Forest	Forest and wildlife management allowed under guidance from a DNR approved forest management plan (Forest Stewardship Plan) and application guidelines which promote or enhance functions and values of water and soil resources, wildlife habitat, riparian areas. Plans are reviewed and updated periodically.
Roads & Trails	BWSR	Roads and trails are limited to those necessary for management use and thrupassage to adjacent property. Road corridor envelopes are excluded from easement.
	MLT	Locations of existing roads, driveways or trails are documented and typically not allowed to expand. Unpaved paths or foot travel are often allowed.
	TNC/USFWS	
	Dakota	Existing trails and paths may be maintained and improved. New, widened, or relocated trails and pathes are discretionary.
	DNR - NPB	When necessary, Native Prairie Bank will allow the use of a field road for the landowner to access the site or adjacent land-locked parcel for land management activities. Often times these non-public field roads are maintained in permanent vegetated cover with little to no trace of vehicle traffic.
	DNR - Trout Streams	Easement terms prohibit filling and excavating, which would be needed for most roads or trails. The proximity to streams precludes utility for roads. The only public use allowed is angling, so there is no need for paved or multi-user trails. Existing trails would be grandfathered.
	DNR - Forest	Roads and trails are allowed for management access and recreational use of the property. Roads and trails are typically unpaved. Usually limited in extent and must be managed in a way that protects the environment (i.e. no rutting, erosion).
Monitoring & Enforcement	BWSR	Easements inspected annually by SWCD for first 5 years and every third year thereafter. Copy of inspection is provided to landowner and BWSR. SWCD provided direction to landowner, as necessary, to assure compliance. If violations are found, annual monitoring continues by SWCD.
	MLT	Annual monitoring of all conservation easements and maintain thorough records of all easement mgt activities. MLT participates in a National easement defense insurance program (Terra Firma) providing resources and expertise in case of significant violation. 3 full-time staff dedicated to monitoring/enforcement and more than 100 trained and certified volunteer monitors.
	TNC/USFWS	Fly all easements at least annually. 4 Easement Enforcement Officers in MN with 5 add'l Refuge Enforcement Officers to assist Easement Enforcement Officers. Pattern tiling is the big issue with wetlands.
	Dakota	Natural Resource Management Plan is required with each Easement. Developed in collaboration with Landowner.
	DNR - NPB	DNR's Conservation Easement Stewardship policy is to protect both the conservation values of the protected property and the state's investment in those interests. Stewardship elements include baseline property report creation, enforcement protocols, regular compliance monitoring, effective record keeping and reporting, and maintaining good working relationships with the easement landowners. Native Prairie Bank implements this policy by following DNR Operational Order 128 "Conservation Easement Stewardship" along with the "Ecological and Water Resources Division Conservation Easement Stewardship Plan and Guidelines", which call for annual landowner contact as well as on-the-ground monitoring once every three years. If a violation is found, annual site visits (or more frequently) are conducted until the violation is rectified. Enforcement authority under Minn. Stat. sec. 92.70 (land use trespass) or civil action by State Attorney General's Office.
	DNR - Trout Streams	Monitoring a minimum of once every three years. Suspected violations are documented, and appropriate enforcement & corrective measures taken. MN DNR has Operational Order 128 on conservation easement stewardship that gives monitoring and enforcement protocol. The Division of Fish and Wildlife has Management and Enforcement Guidelines that provide additional direction and resources. Enforcement authority under Minn. Stat. sec. 92.70 (land use trespass) or civil action by State Attorney General's Office.
	DNR - Forest	Per DNR Operational Order 128 and Discipline Guidelines for Conservation Stewardship Administered by the Division of Forestry, annual monitoring by DNR Forestry staff for all easements that includes landowner meetings, on-the-ground site visits, and monitoring reports. Enforcement authority under Minn. Stat. sec. 92.70 (land use trespass) or civil action by State Attorney General's Office.

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Division or Parcelization	BWSR	No restrictions. Terms of easement remain. Have had not big problems with this.
	MLT	Negotiable
	TNC/USFWS	No restrictions. Terms of easement remain. Have had not big problems with this.
	Dakota	Negotiable
	DNR - NPB	Subdivision of the protected property is prohibited unless a specific division is agreed upon at the time of acquisition.
	DNR - Trout Streams	No restrictions. Terms of easement remain. Have had not big problems with this.
	DNR - Forest	Either no or limited. Very large easement may allow division. Terms remain the same. Have had limited division of parcels to date.